

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2015 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

MAHENDRASINH BHAIKAVSINH PATMAR

Versus

STATE OF GUJARAT & ORS

Appearance:

MR BS PATEL for Petitioner

SERVED for Respondent No. 1, 3

MR DA BAMBHANIA for Respondent No. 2

CORAM : MR.JUSTICE R.K.ABICHANDANI

Date of decision: 19/03/96

ORAL JUDGEMENT

Rule. The learned counsel for the respondents authorities waives service of rule on behalf of the respondents. The petitioner's father who was serving as a Head Constable passed away on 21.8.1985. On that day the petitioner was minor since he was born on 19.3.1970. Immediately on attaining majority, he made an application on 19.8.1988, a copy of which is at Annexure-C to the

petition, for compassionate appointment in the post of Junior Clerk. The respondents rejected that application on 23.8.1988 as per Annexure-A and B to the petition in which it is stated that the application was made beyond 5 years and therefore could not be entertained. It was also stated that the elder son of the deceased was a practising lawyer since 27.10.1988. It is clear that the ground that the application was made after 5 years given in the impugned order dated 23.8.1988 cannot be sustained since the application was given within 3 years after the demise of the petitioner's father and immediately on petitioner's attaining majority. The authorities have decided the application as if it was for the post of police constable. The application of the petitioner, copy of which is at Annexure-C was for the post of junior clerk. It is, therefore, clear that the concerned authority has not applied its mind to the facts of the case before passing the impugned orders. It will be therefore appropriate for the concerned authority of the respondents to reconsider the application of the petitioner for compassionate appointment which was given on 19.8.1988 and take a fresh decision in the matter. The impugned orders at Annexures-A and B to the petition rejecting the petitioner's application for compassionate appointment are hereby set aside and the respondent authorities are directed to reconsider the application of the petitioner and take an appropriation in the matter in accordance with law within four weeks from the date of the receipt of writ of this order. Rule is made absolute accordingly with no order as to costs.

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